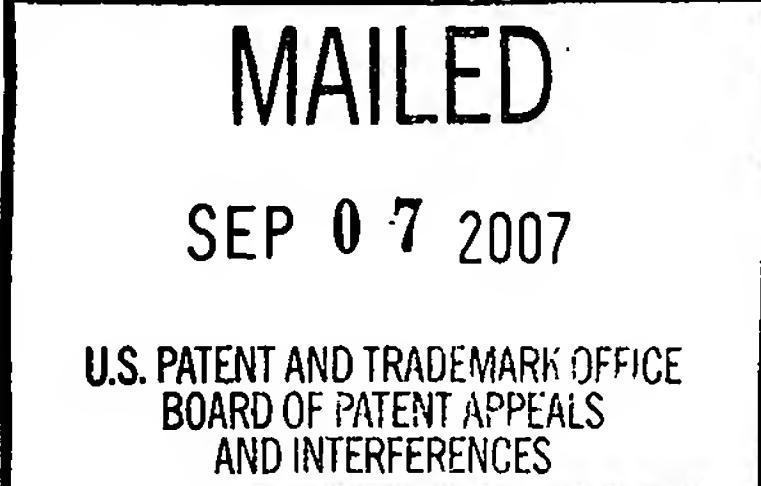


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL J. ROENDAUL, WAYNE ISBELL,
JAMES G. WINKEL, and DAVID W. BUCK

Application 10/707,051
Technology Center 2800



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 26, 2007. A review has revealed that the application is not ready for docketing as an appeal. Accordingly, this application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF

The Appeal Brief filed April 27, 2006 is defective because the Summary of Claimed Subject Matter does not map the claimed invention to the independent claims as set forth in 37 C.F.R. § 41/37 (c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth

paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

CLAIMS APPENDIX

A review of the Appeal Brief also reveals that claim 10 in the appendix of the Appeal Brief is not consistent as in the Amendment filed Aug. 23, 2005. Appropriate correction required.

EVIDENCE APPENDIX

Additionally, the appendix heading “Evidence Appendix” is omitted from the Appeal Brief. If there is no evidence please write “none” under the appropriate heading.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on April 27, 2006, defective;
- 2) for the applicant to file a substitute Appeal Brief in compliance with 37 C.F.R. § 41.37;
- 3) for correction of the Summary of Claimed Subject Matter;
- 4) for correction of the Claims Appendix;

Application 10/707,051

- 5) to include the Evidence Appendix Heading;
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: Patrick J. Nolan
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/rwk

MARSTELLER & ASSOCIATES, P. C.
P. O. BOX 803302
DALLAS TX 75380-3302